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10 *Vegas Hotel and Casino, Inc., and Tropicana*  
*Las Vegas, Inc.*

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 DUSTIN CHAPMAN, an individual, on  
behalf of himself and all others similarly  
14 situated,

15 Plaintiffs,

16 v.

17 PENN NATIONAL GAMING, INC., a  
Pennsylvania corporation; TROPICANA  
18 LAS VEGAS HOTEL AND CASINO,  
INC.; a Delaware corporation;  
19 TROPICANA LAS VEGAS, INC., a  
Nevada domestic corporation d/b/a  
20 Tropicana Las Vegas,

21 Defendants.

CASE NO. 2:17-cv-2924-GMN-PAL

**STIPULATION AND ORDER TO:**

**(1) STAY THIS CASE PENDING A  
DETERMINATION OF SUBJECT  
MATTER JURISDICTION**

**-and-**

**(2) EXTEND DEADLINES FOR  
DEFENDANTS TO RESPOND TO  
PLAINTIFF'S COMPLAINT [ECF NO. 1]  
AND MOTION TO CONSOLIDATE [ECF  
NO. 5] (Second Request)**

22 Pursuant to LR IA 6-1 and 6-2, Plaintiff Dustin Chapman ("Plaintiff") and  
23 Defendants Penn National Gaming, Inc., Tropicana Las Vegas Hotel and Casino,  
24 Inc., and Tropicana Las Vegas, Inc. (together "Tropicana"), by and through their  
25 respective counsel of record, stipulate to (1) stay this case pending a ruling on subject  
26 matter jurisdiction in *Cabal et al. v. Caesars Entertainment Corporation et al.*, Case  
27 No. 2:17-cv-02841-APG-VCF (the "Caesars Case"), another case filed by the same  
28

1 plaintiff's counsel, and (2) extend the current deadlines for Tropicana to respond to  
2 Plaintiff's Complaint (ECF No. 1) and Motion to Consolidate (ECF No. 5, filed  
3 November 30, 2017) until after the Court makes a threshold determination of subject  
4 matter jurisdiction in the Caesars Case.

5 **I. Background**

6 On November 21, 2017, Plaintiff filed the instant case against Tropicana,  
7 alleging that Tropicana improperly applied Clark County, Nevada's Combined  
8 Transient Lodging Tax to charges for internet access. Relatedly, counsel for Plaintiff  
9 has filed at least nine additional lawsuits (the "Related Lawsuits" and, together with  
10 the instant action, the "Resort Fee Lawsuits") in this District Court that assert  
11 similar claims and requests for relief against other resort defendants:

- 12 • *Cabal et al. v. Caesars Entertainment Corporation et al.*, Case No. 2:17-  
13 cv-02841-APG-VCF (filed on November 10, 2017);
- 14 • *Phelps et al. v. MGM Resorts Int'l et al.*, Case No. 2:17-cv-02848-APG-  
15 CWH (filed on November 13, 2017);
- 16 • *Martinez et al. v. Las Vegas Sands Corp. et al.*, Case No. 2:17-cv-02859-  
17 APG-NJK (filed on November 14, 2017);
- 18 • *Schnitzer et al. v. Wynn Resorts, Ltd. et al.*, Case No. 2:17-cv-02868-  
19 RFB-GWF (filed on November 15, 2017);
- 20 • *Bowes et al. v. Nevada Property 1 LLC*, Case No. 2:17-cv-02913-GMN-  
21 VCF (filed on November 20, 2017);
- 22 • *Shapiro v. Treasure Island, LLC et al.*, Case No. 2:17-cv-02930-APG-  
23 CWH (filed on November 22, 2017);
- 24 • *Inman v. Las Vegas Resort Holdings, LLC*, Case No. 2:17-cv-02950-JAD-  
25 NJK (filed on November 28, 2017);
- 26 • *DiNino v. Four Seasons Hotels Inc.*, Case No. 2:17-cv-2961-JAD-GWF  
27 (filed on November 29, 2017); and
- 28 • *Robinson v. Westgate Resorts Inc.*, Case No. 2:18-cv-95 (before Judge  
Dorsey) (filed on January 17, 2018).

Each of the Resort Fee Lawsuits filed by counsel for Plaintiff, including the  
instant case, contains similar allegations and requests for relief. Thus, each case will

1 likely involve a similar determination of whether the adjudicating court has subject  
2 matter jurisdiction over the action.

3 **II. The Requested Stay and Deadline Extensions Will Conserve Resources for the**  
4 **Parties and the Court**

5 To avoid duplicative legal briefing and to efficiently address the common issue  
6 of subject matter jurisdiction, the parties to the Resort Fee Lawsuits have entered  
7 into a separate agreement (the “Agreement”), attached hereto as Exhibit 1, to  
8 efficiently determine subject matter by filing a single motion to dismiss on the issue  
9 (the “Subject Matter Jurisdiction Motion”) in the first-filed case, *i.e.*, *Cabal et al. v.*  
10 *Caesars Entertainment Corporation et al.*, Case No. 2:17-cv-02841-APG-VCF (the  
11 “Caesars Case”). Under the Agreement, the signatory parties presently before Judge  
12 Gordon have agreed to consolidate their respective cases for the sole and limited  
13 purpose of allowing Judge Gordon determine the issue of subject matter jurisdiction  
14 in one consolidated order. On February 22, 2018, Judge Gordon granted the parties’  
15 request and consolidated various Resort Fee Lawsuits before him.<sup>1</sup>

16 Additionally, the parties in the remaining cases, including Tropicana, have  
17 collectively agreed to seek a stay of their respective cases pending a decision on the  
18 Subject Matter Jurisdiction Motion in the Caesars Case. While not binding on this  
19 Court, such a decision may nevertheless provide guidance, increase judicial  
20 efficiency, and decrease costs to both the Court and the parties. In fact, the parties  
21 have agreed to take certain actions in this litigation (as set forth more fully below)  
22 that are contingent on the outcome of the Subject Matter Jurisdiction Motion in the  
23 Caesars Case.

24 Thus, pursuant to the Agreement, Plaintiff and Tropicana, by and through  
25 their undersigned counsel, stipulate that:

26  
27  
28 <sup>1</sup> See Order Granting Stipulations (ECF No. 21), Case No. 2:17-cv-02841-APG-VCF.



1 Pursuant to the Agreement, filing of the Subject Matter Jurisdiction Motion  
2 does not constitute a waiver of any defense or argument and shall not preclude  
3 Tropicana from asserting any additional defenses or arguments at a later date,  
4 including, without limitation, any defenses or motions permitted by Federal Rule of  
5 Civil Procedure 12(b). These stipulations are made in good faith and not for purposes  
6 of delay.

7 Dated this 7th day of March, 2018.

8 BALLARD SPAHR LLP

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9  
10 By: /s/ Lindsay Demaree

By: /s/ Don Springmeyer

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**ORDER**

23 In light of the above stipulation, IT IS HEREBY ORDERED that the Motion to Consolidate,  
24 (ECF No. 5), is DENIED without prejudice as moot. The Court grants the parties leave to refile  
25 the consolidation motion within thirty (30) days of Judge Gordon resolving the Subject Matter  
26 Jurisdiction question in the related case. The Court further notes that it remains under a  
27 continuing duty to independently evaluate subject matter jurisdiction pursuant to Federal Rule of  
28 Civil Procedure 12(h)(3). IT IS FURTHER ORDERED that, in light of the above stipulation, the  
parties' Stipulation, (ECF No. 16), is DENIED as moot.

DATED this 9 day of March, 2018.

  
Gloria M. Navarro, Chief Judge  
UNITED STATES DISTRICT COURT